

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ANIMAL WELFARE INSTITUTE
and FARM SANCTUARY

Plaintiffs

18-CV-6626

vs.

UNITED STATES DEPARTMENT
OF AGRICULTURE and FOOD SAFETY
AND INSPECTION SERVICE

Defendants

NOTICE OF MOTION

PLEASE TAKE NOTICE that defendants, by their attorney, Michael S. Cerrone, Assistant United States Attorney, for James P. Kennedy, Jr., United States Attorney for the Western District of New York, hereby move this Court for an order extending all current deadlines in this action commensurate with the duration of the lapse in appropriations for the Department of Justice. This motion is supported by the accompanying Declaration of Michael S. Cerrone.

DATED: Buffalo, New York, December 27, 2018

JAMES P. KENNEDY, JR.
United States Attorney

BY: ***/s/MICHAEL S. CERRONE***
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Defendants

**DECLARATION IN SUPPORT OF MOTION FOR AN EXTENSION OF ALL
CURRENT DEADLINES COMMENSURATE WITH THE DURATION OF THE
LAPSE IN APPROPRIATIONS**

MICHAEL S. CERRONE, makes this declaration under penalties of perjury,
pursuant to 28 U.S.C. Section 1746:

1. I am an Assistant United States Attorney in the Western District of New York,
duly appointed by James P. Kennedy, Jr., United States Attorney for the Western District of
New York. I have been assigned to handle the above-referenced matter and, as such, I am
fully familiar with the pleadings and proceedings herein.

2. Defendants hereby move for an order extending all current deadlines in this
action commensurate with the duration of the lapse in appropriations for the Department of
Justice.

3. In particular, defendants' reply brief in further support of their motion to
dismiss is due on or before December 31, 2018 and defendants respectfully request an
extension of that deadline.

4. At midnight on December 21, 2018, the continuing resolution that had been funding the Department of Justice expired and appropriations to the Department lapsed. The Department does not know when funding will be restored by Congress.

5. Absent an appropriation or continuing resolution, Department of Justice attorneys are prohibited from working, even on a voluntary basis, except in very limited circumstances, including “emergencies involving the safety of human life or the protection of property.” 31 U.S.C. § 1342.

6. If this motion is granted, the undersigned counsel will notify the Court as soon as Congress has appropriated funds for the Department or enacted another continuing resolution.

7. We greatly regret any disruption caused to the Court and the other litigants.

DATED: Buffalo, New York, December 27, 2018.

Respectfully Submitted,

JAMES P. KENNEDY, JR.
United States Attorney

BY: */s/MICHAEL S. CERRONE*
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